

CONFIDENTIAL Department of State

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STOKESSEL AND NORSTAD

Taking advantage of presence in Washington of Smuckburgh and Laloy, Kohler and other Departmental officers have held series bilateral, tripartite and quadripartite discussions on Berlin over past three days. These understood to be informal and not binding on govts but resulted in useful exchange of views on various current aspects of Berlin question. Principal subjects covered were:

1) Reply to Soviet Aide-Memoire of June 4

US circulated to British, French and Germans working draft of possible US reply to Soviet aide-memoire received in Vienna. Text deals at some length with standard Soviet arguments and concludes with alternative endings. First alternative proposes that issue re status respective parties in Germany and Berlin and effect any separate peace treaty on such status be submitted to International Court of Justice pursuant to Article 36 of Court Charter. Second alternative advances all-Berlin proposal.

In explaining rationale for Court proposal, Kohler noted that certainty very great that Soviets would never voluntarily submit to jurisdiction of International Court. As exchange with Soviets on this subject taking place.

Drafted by:

EUR: GER: MJH:lll:eranda: gw. 6/17/6

Telegraphic transmission and

**1. *Staphylococcus aureus***

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EUR - Foy

EUR - Foy D. Kohler

**Clearance:**

S/S - Mr. Navez

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[We and Allies would start taking certain measures military preparedness in line with contingency plans which now under active review US Govt. After Soviet rejection US proposal for contentious litigation, we would then consider going into Security Council, as likewise contemplated in contingency plans, seeking both cease and desist order and request by Council for advisory opinion from Court on legal issue involved. If, as anticipated, Soviets veto such request, then consideration would be given to going into General Assembly and repeating same process, except that Soviet veto would not apply. While this taking place Western Powers would have numerous opportunities to make speeches, propagandize and win wide public support for their position on Berlin. Idea would be to keep Soviets on defensive, and on assumption some country bound in any event bring Berlin issue into UN once it begins approach critical point, course of action proposed would enable Western Powers to keep better control of situation by having problem arise in UN on our terms. Kohler stressed that Court would of course not be asked to adjudicate fact of Western rights in Berlin but Soviet claim that by its unilateral action those rights can be extinguished.

Ensuing discussion showed considerable interest in possibility such Western initiative, though agreed this would represent important policy step which would require careful prior consideration by govts. ]

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Kohler commented that there was pretty strong feeling in Washington that this time we were moving toward real confrontation with Soviets over Berlin and that Soviet aide-memoire was opening gun.

We had for obvious reasons maintained relative silence on question since May 1960 while Soviets continued propagate their QTE peace treaty UNQTE and QTE free city gambits. However felt that we must now get into more positive general posture with view to developing political, propaganda and deterrent campaign which we would be prepared to sustain from now to end of year.

In response to query [ ] as to whether all-Berlin alternative [ ] be given equal weight, personal view those present was that, while this subject to further consideration by govts, main attention should be on Court proposal.

2. German Reply to Soviet Memorandum of February 17

After considerable discussion text of reply agreed. Germans noted however that

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AMFF had indicated ~~xxx~~ it wished propose some additional language which would require meeting of Four Power Working Group next week. It was also agreed that final form of German response could really only be determined when basic decisions made as to content US reply to aide-memoire of June 4. [

In discussion  
[ ] con- B  
related timing of German and US responses, [ ]  
sensus was that this likewise could only finally be decided in light timing American response. Kohler commented that delivery American reply before July 4 holiday weekend would be desirable in order ensure maximum publicity and suggested there might perhaps be two-day gap between two, with German reply following. [ ]

[ ] Kohler observed one merit of early reply was that it would cut off speculation on possible weakening our position.

Only substantive point of importance in discussion German reply was whether specific language should be included in response to Soviet charge of German militarism, as in earlier draft, that FedRep does not seek independent nuclear <sup>capability</sup> ~~capability~~ or transfer of nuclear weapons to national jurisdiction. [ ]

[ ] Inclusion such language in American reply to aide-memoire, as in draft under discussion, considered desirable as statement of fact which US would be in position to make.

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3. Contingency [ ]

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3. Contingency Planning

This subject discussed only bilaterally and tripartitely. Kohler noted that subject presently under intensive review in US Govt and that we hoped shortly to come up with some fairly specific proposals to heighten effectiveness of Western deterrent in Berlin situation. He stressed US feeling, which conveyed to both British and French on previous occasions, that US felt probe contemplated on too small a scale to prove anything and that action to reopen access required greater commitment of Western forces as well as firm decisions by govts to planning and execution of courses of action.

4. Procedures

Shuckburgh, Lalay and Kohler agreed that meeting of three at one of capitals extending for 10-day period might be desirable toward end of July to attempt tie together various stands of allied planning both re contingency planning and tactics and substance for next round with Soviets. No decision taken in this matter, but agreement was general that some sort of working group session as prior to Geneva Conference 1959 and Summit Conference 1960 would probably be necessary, whether or not West attempting

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move toward negotiations with Soviets prior to threatened peace treaty action.

Question of German participation such meeting raised but not decided, although US view is that this essential. Kohler also urged full German participation in Washington Ambassadorial Group and closer association with LIVE OAK exercise. B

Full memoranda of conversation being pouched.

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